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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,713	08/12/2008	Helmut Schluderbacher	080233-0102	3551
26371	7590	08/02/2011	EXAMINER	
FOLEY & LARDNER LLP			REVAK, CHRISTOPHER A	
777 EAST WISCONSIN AVENUE				
MILWAUKEE, WI 53202-5306				
			ART UNIT	PAPER NUMBER
			2431	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/594,713	<b>Applicant(s)</b> SCHLUDERBACHER, HELMUT	
	<b>Examiner</b> CHRISTOPHER REVAK	<b>Art Unit</b> 2431	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2011.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 22-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/8/11</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant argues that Blonder fail to disclose of "logging onto a technical system response checking that the selected graphic of the response code correlates with the stored user code". The examiner respectfully disagrees with the applicant's assertion, Blonder discloses that the tap regions correspond to the password, so the selected graphic response code correlates with the stored user code in order to grant access, see column 5, lines 7-15. The elements must be arranged as required by the claim, but this is not an ipsissimis verbis test, i.e., identity of terminology is not required. In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).
2. Applicant's arguments with respect to claims 22-42 have been considered but are moot in view of the new grounds of rejection.

### ***Information Disclosure Statement***

3. The information disclosure statement (IDS) submitted on June 8, 2011 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 22-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blonder, U.S. Patent 5,559,961 in view of Davies, U.S. Patent 5,608,387.

As per claim 22, it is taught of a method for safely logging on to a technical system by means of a user code stored in the system, comprising a) displaying a selection code having a plurality of graphics; b) displaying a response code having a plurality of graphics; c) receiving a selection of one of the plurality of graphics from the response code; d) checking the selected graphic of the response code in accordance with a stored user code; and e) logging on to the technical system upon checking that the selected graphic of the response code correlates with the stored user code (col. 3, lines 23-31; col. 3, line 55 through col. 4, line 25; and col. 5, lines 7-15). The teachings of Blonder fail to disclose of displaying a plurality of decoy selection graphics and wherein the matching response graphic having at least one property that, according to stored user code, is associated with at least one property of at least one of the plurality of graphics from the selection code. The teachings of Davies disclose of displaying a plurality of decoy selection graphics and wherein the matching response graphic having at least one property that, according to stored user code, is associated with at least one property of at least one of the plurality of graphics from the selection code (col. 4, lines 1-16 & 41-67). It would have been obvious to a person of ordinary skill in the art at the time of the invention to have been motivated to apply decoy selections in order to hide, or confuse unauthorized users from selecting the correct images in order to gain

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access. The teachings of Davies indicate that an image that may be false for one user may be a key image for another user, hence being a decoy image (col. 2, lines 36-43).

As per claim 23, it is disclosed wherein the selection code and the response code are displayed simultaneously (as shown in Figure 4).

As per claim 24, it is taught wherein the selection code and the response code are displayed consecutively (as shown in Figure 4).

As per claim 25, it is disclosed of repeating steps a), b), c), and d), prior to performing step e) and after changing at least one of the selection code and the response code, to generate a sequence of selected response code graphics; wherein checking that the selected graphic of the response code correlates with the stored user code includes checking the sequence of selected response code graphics (col. 3, lines 23-31; col. 3, line 55 through col. 4, line 25; and col. 5, lines 7-15).

As per claim 26, it is taught wherein steps a) through d) are repeated a number of times determined by the technical system (col. 4, lines 30-58).

As per claim 27, it disclosed of further comprising of displaying a plurality of additional graphics in addition to the selection code (col. 3, lines 23-31 and col. 5, lines 7-15).

As per claim 28, it taught wherein the selection code and the additional graphics are grouped into units, each unit having an identifier; and wherein at least one unit contains the selection code, and the user code includes the identifier of the at least one unit containing the selection code (col. 3, lines 23-31; col. 3, line 55 through col. 4, line 25; and col. 5, lines 7-15).

As per claim 29, it is disclosed of further comprising displaying a plurality of additional graphics in addition to the response code (col. 3, lines 23-31 and col. 5, lines 7-15).

As per claim 30, it is taught wherein the response code and the additional graphics are grouped into sets, each set having an identifier; and wherein at least one set contains the response code, and the user code includes the identifier of the at least one set containing the response code (col. 3, lines 23-31; col. 3, line 55 through col. 4, line 25; and col. 5, lines 7-15).

As per claim 31, it disclosed wherein receiving the selection of the selected graphic of the response code comprises receiving the selection via a touch-screen (col. 2, lines 23-24 and col. 3, lines 57-63).

As per claim 32, it is taught wherein receiving the selection of the selected graphic of the response code comprises receiving the selection via a keyboard key associated with the selected graphic of the response code (col. 3, lines 57-63).

As per claim 33, it is disclosed wherein at least one of the color, shape, pattern, and movement of at least one graphic of the response code is associated with at least one graphic of the selection code (col. 3, lines 57-63 and as shown in Figure 4).

As per claim 34, it is taught of further comprising repeating steps a) though d) upon determining that the selected graphic of the response code does not correlate with the stored user code (col. 3, line 55 through col. 4, line 3).

As per claim 35, it is disclosed wherein steps a) through d) may be performed at most a predetermined number of times (col. 3, line 55 through col. 4, line 3).

6. Claims 36-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blonder, U.S. Patent 5,559,961, in view of Davies, U.S. Patent 5,608,387, in further view of Jalili, U.S. Patent 6,209,104.

As per claims 36,37, and 42, Blonder fails to disclose wherein the selected graphic of the response code is transmitted to the technical system for comparison with the user code in encrypted format. Jalili teaches wherein the selected graphic of the response code is transmitted to the technical system for comparison with the user code in encrypted format (col. 3, lines 10-22; col. 9, lines 19-25 & 51-54; col. 10, lines 46-59; and col. 11, lines 14-18). It would have been obvious to a person of ordinary skill in the art to have been motivated to transmit password data to a second device in encrypted form in order to secure the transmission of the content from unauthorized access by an unauthorized user. The teachings of Jalili call for the encryption of the transmission data as a means to prevent interception of the graphical password information (col. 10, lines 57-59).

As per claim 38, it is taught by Blonder of a device for logging on to a technical system, the device comprising a display for displaying a selection code, the selection code including a plurality of graphics, the display further for displaying a response code, the response code including a plurality of graphics; a first device for receiving a selection of at least one graphic from the response code; and checking the selected graphic of the response code according to the stored user code, wherein the device logs on to the technical system upon determining that the selected graphic from the

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response code correlates with the stored user code (col. 3, lines 23-31; col. 3, line 55 through col. 4, line 25; and col. 5, lines 7-15). The teachings of Blonder fail to disclose of displaying a plurality of decoy selection graphics and wherein the matching response graphic having at least one property that, according to stored user code, is associated with at least one property of at least one of the plurality of graphics from the selection code. The teachings of Davies disclose of displaying a plurality of decoy selection graphics and wherein the matching response graphic having at least one property that, according to stored user code, is associated with at least one property of at least one of the plurality of graphics from the selection code (col. 4, lines 1-16 & 41-67). It would have been obvious to a person of ordinary skill in the art at the time of the invention to have been motivated to apply decoy selections in order to hide, or confuse unauthorized users from selecting the correct images in order to gain access. The teachings of Davies indicate that an image that may be false for one user may be a key image for another user, hence being a decoy image (col. 2, lines 36-43).

Blonder and Davies fails to disclose wherein the selected graphic of the response code is transmitted to a second device for comparison with the user code. Jalili teaches wherein the selected graphic of the response code is transmitted to a server (second device) for comparison with the user code (col. 3, lines 10-22 and col. 9, lines 19-25 & 51-54). It would have been obvious to a person of ordinary skill in the art to have been motivated to transmit password data to a second device for comparison in order to grant access. The teachings of Jalili call for the transmission data to a server in order to ensure that the content is not readily susceptible to observation during entry when a



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user desires access to resources provided by the server (col. 2, lines 64-67 and col. 6, lines 3-7 & 21-27).

As per claim 39, it is disclosed by Blonder wherein the selection code and the response code are displayed simultaneously (as shown in Figure 4).

As per claim 40, it is taught by Blonder wherein receiving the selection of the selected graphic of the response code comprises receiving the selection via a keyboard key associated with the selected graphic of the response code (col. 3, lines 57-63).

As per claim 41, it disclosed by Blonder wherein receiving the selection of the selected graphic of the response code comprises receiving the selection via a touch-screen (col. 2, lines 23-24 and col. 3, lines 57-63).

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER REVAK whose telephone number is (571)272-3794. The examiner can normally be reached on Monday-Thursday, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on 517-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher A. Revak/  
Primary Examiner, Art Unit 2431